

Procedural Deficit: Public involvement and consultation

Summary: Powys County Council has failed to adequately involve and consult with the public. The ‘further focused changes’ are unsound for this reason.

The Delivery Agreement

Reference is made to the Powys County Council LDP ‘Delivery Agreement, revised October 2015’. Within this agreement at part 3, reference is also made to the ‘Community Involvement Scheme’

Extracts in italics and highlights by respondent.

“Executive Summary

This Delivery Agreement (DA) has been produced by Powys County Council for the new Local Development Plan (LDP) which will cover the whole of Powys excluding the area in the Brecon Beacons National Park. The two main parts of the DA are:

- 1) a Timetable of the key stages of Plan preparation; and*
- 2) a Community Involvement Scheme which details how and when the community will be able to get involved in the Plan preparation process.*

The Delivery Agreement also sets out how and when the Council will appraise the Plan throughout its production and the approach that the Council is taking towards Supplementary Planning Guidance.”

2) Community Involvement Scheme

The Community Involvement Scheme (CIS) details who, when and how the Council will consult and engage with various stakeholders, including the general public, during the production of the LDP. The Council is committed to complying with the CIS during the production of the LDP) a Community Involvement Scheme (CIS) setting out how and when stakeholders and the community can contribute during the preparation of the LDP.

The Delivery Agreement is a key document in the plan preparation process. After it has been agreed by the Council and the Welsh Assembly Government it signifies the commencement of the new statutory development plan process in Powys and commits the County Council as the Local Planning Authority for Powys (excluding the Brecon Beacons National Park) to produce the LDP in conformity with the stated timescales and consultation processes.

The Timetable (set out in Part 2, page 12) has been drafted to meet the Assembly’s desire to speed up the adoption and review of development plans. Together with setting out definitive and indicative dates for each stage of the LDP up to adoption, it includes key dates for the preparation and publication of the environmental, sustainability and annual monitoring reports which are required by the 2004 Act and Strategic Environmental Assessment (SEA) regulations.

The CIS (set out in Part 3, page 16) explains how and when developers, agencies, the public and interested groups can contribute to the plan’s preparation and how the Council will respond to contributions.

1.9 Tests of Soundness

A major emphasis of the new development plan system is on the production of a “sound” plan as tested at Independent Examination. The Welsh Assembly and the Planning Inspectorate have published guidance on what this means and the tests involved (see “A guide to the examination of Local Development Plans”, Planning Inspectorate Wales). A “sound” plan is one which is considered to have been prepared with “good judgement and is able to be trusted”.

The LDP in both its policy content and the process of its production must pass the tests of “soundness”. Preparation of the LDP in accordance with the published DA is one of the tests of soundness.

Fundamentally, a sound plan will be one which: has been prepared correctly in accordance with the statutory requirements; is founded on a robust and credible evidence base; has been developed with continuous community involvement; demonstrates policy integration; and contributes to the achievement of sustainable development.”

Comment.

Powys CC has set out its plan to deliver the Local Development Plan. The Council states that a sound plan must have been developed with continuous community involvement.

“PART 3: THE COMMUNITY INVOLVEMENT SCHEME

3.1 Community Involvement Scheme (CIS) Overview

3.1.1 Introduction

This part of the Delivery Agreement details how the development plan will be prepared, developed, monitored and reviewed, in partnership with the community and other stakeholders.

The purpose of the Community Involvement Scheme is to:

- *improve the process of plan preparation by engaging and involving the public in the preparation of the LDP.*
- *seek to establish agreement & consensus between stakeholders on the plan's aims and objectives and in its options and preferred strategy.*
- *provide a transparent and structured process of engagement with the community, at all stages in the preparation of the LDP.*
- *produce a sound plan.*

3.1.2 The Council's Approach to Community Involvement

i) Making the Connections

The Welsh Assembly Government's agenda in Making the Connections reaffirms that citizens should be at the forefront in terms of public involvement and decision making. Powys County Council is keen to embrace this citizen-centred approach and will endeavour to consider carefully how to break down barriers to public involvement and ensure there are opportunities for all to express their opinions on the production of a new Local Development Plan.”

Comment.

Powys CC declares the importance of public involvement and opportunities for all to respond to proposals in the Plan.

“3.5 Community Involvement Scheme: Expectations

3.5.1 What Stakeholders can expect of the Council

- *The Council wishes to ensure that the new LDP process includes meaningful, open and constructive community involvement from the outset. The Delivery Agreement has been drafted with the assistance of relevant experts within the Council and with the help of the Powys Association of Voluntary Organisations (PAVO) to ensure that its participation approach follows best practice.*
- *The Council will do all it can to adhere to the published timetable and will try to ensure that all information is published and available on time.*
- *The Council will use a range of methods to publicise the progress of the LDP to ensure that stakeholders and the community are regularly updated.*

STAGE 5: DEPOSIT OF PROPOSALS (Regulations 17 & 18)

June – July 2015

Purpose: To enable representations on the Deposit LDP and supporting documents

Details: The Deposit LDP will be placed on formal deposit for public consultation (statutory 6 week period, LDP Reg 18 refers) and representations will be invited. The six week consultation period will also apply to the Environmental Report for which the statutory requirement states that consultation must last not less than 28 days. The documents to be published at this time will comprise the Deposit LDP, the SA Report, the SEA Environmental Report and the findings from the HRA / other appraisals, a list of supporting documents and the initial consultation report. Any representations received as a result of this consultation exercise will be made available for public inspection at the locations detailed in Appendix 6 and on the Council’s website.

Public involvement? This is a key consultation stage and may be the last opportunity for interested parties to make a representation (make their views known) on policies and proposals in the Plan.

Consultation/Involvement Mechanism

(How?) Copies sent to specific consultation bodies, environmental consultation bodies and other general consultees as the Council considers appropriate. Other consultees notified of availability.

Deposit Plan and associated & supporting documents published on Council’s website and made available at deposit locations

Local Advertisement (Reg 17d refers)

Press Release

Public exhibitions & meetings”

Comment

The Council sets out the importance of the policy formulation stage and a last opportunity for the public to comment on policies and proposals.

“STAGE 7: FOCUSED CHANGES (WAG CIRCULAR LETTER CL-01-2009)

January – February 2016

Purpose: Having considered representations received during stage 5, the Council will publish an “Addendum” to the Deposit Powys LDP which will set out such changes. This Addendum will also be forwarded to the Assembly and be subject to a 6 week consultation period, any responses received during this period will be forwarded directly to the Planning Inspector so that the focussed changes can be considered early in the examination process. The six week consultation period will also apply to the Environmental Report for which the statutory requirement states that consultation must last not less than 28 days.

Public Involvement: “Addendum” to the Deposit Powys LDP will be subject to a 6 week public consultation period. However, it should be noted that this is not a general opportunity for representors to add to their original deposit representation.”

Comment

The Council states that Focused Changes phase is not an opportunity to add to previous representations.

The Delivery Agreement is silent on ‘Further Focused Changes’, and makes no reference to the inclusion of new policies and their consultation arrangements at this FFC stage.

SCHEDULE OF FURTHER FOCUSED CHANGES (Document number 44) An Addendum to the Powys Local Development Plan, Deposit Draft and Focussed Changes 2011 – 2026 October 2016

1.2 What is a Further Focussed Change? 1.3 The LDP was submitted to the Welsh Government / Planning Inspectorate (WG/PINS) on 29th January 2016. However, upon preliminary consideration of the submitted documents, the LDP Inspector held an Exploratory Meeting on 10th May 2016 as she had several concerns mainly regarding the housing requirement and supply, the provision of affordable housing and Gypsy and Travellers Accommodation need. As a result of these issues the LDP Inspector, in her letter of 25th May 2016, decided that the most appropriate course of action would be to suspend the Examination for a period of six months with immediate effect in order to enable the Council to prepare additional evidence.

Comment

There is no reference in this Powys CC document to ‘Renewable Energy’

Powys CC Press Releases and Notices about the LDP including FFCs

- 1. Press Release. 14th September 2016 “Changes to a plan that guides the scale and location of new development in the county will be subject to a public consultation, Powys County Council has confirmed. The council’s Cabinet agreed this week (Tuesday 13 September) to consult on Further Focussed Changes (FFCs) within the Local Development Plan (LDP). The FFCs relate to housing viability, delivery of housing numbers and gypsy and traveller accommodation. Renewable energy, including local search areas that have been identified for solar and wind energy, is also subject to the FFCs. A public consultation on the changes to the plan are expected to take place next month (October).*

Cllr Avril York, Cabinet Member for Planning and Regeneration, said: "Once the dates of the public consultation have been finalised, we will publicise them so everyone in the county will have an opportunity to look at the changes and respond to them."

2. Official notice POWYS COUNTY COUNCIL Planning and Compulsory Purchase Act 2004. The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005 (As Amended) Notice of Public Consultation on the Schedule of Proposed Further Focussed Changes POWYS LOCAL DEVELOPMENT PLAN 2011 - 2026

Powys County Council has considered all representations received in relation to the public consultation on the proposed Focussed Changes January 2016. Following submission of the LDP to the Welsh Government and the Planning Inspectorate in January 2016 and the subsequent Exploratory Meeting with the Inspector, the Council is proposing Further Focussed Changes. These Further Focussed Changes have been submitted to the Inspector for examination and are outlined in the "Schedule of Further Focussed Changes October 2016".

The Further Focussed Changes are subject to a formal 6 week public consultation between Monday 10th October and 5.30 pm Monday 21st November 2016.

Comment

This single Press Release issued by the Council is the sole reference to 'Renewable Energy' and 'Local Search Areas'. A search of the archives of news reports of 2 prominent local newspapers has been carried out. It was not possible to trace in a 'news' section details of the 'Further Focused Changes' including mention of renewable energy and local search areas. Publications of the official notice were found however this notice makes no reference to the contents of the Further Focused Changes.

3. Press Release. 14th November 2016 "*Consultation on changes to a plan that guides the scale and location of new development in the county will close later this month, Powys County Council has said*"....." "*The FFCs relate to housing viability, delivery of housing numbers and gypsy and traveller accommodation. Renewable energy, including local search areas that have been identified for solar and wind energy, is also subject to the FFCs*"

Comment

This Powys CC press release followed a seminar for County Councillor members and a press release issued by this objector. It was released 7 days before the closure of the consultation period. However of the 2 prominent papers checked, only one carried some details of this press release and omitted any reference to the renewable energy or local search areas.

Customer surveys of some LDP advertised locations for public viewing

Library/Planning office	Date	Response forms Yes/No	Comments
Builth Wells	15 th November 2016	No	The lady on the desk had no idea about the LDP and its availability for members of the public. At this stage, our researcher said, most members of the public would leave. However she persisted and the lady offered to go upstairs and look in a room where an IT class was taking place. She returned a few minutes later with a housing response form. Our person persisted again, and accompanied the lady to the training room which was full of boxes. Together they found a box labelled 'LDP' and after rummaging through it found, after 15 minutes, 6 LDP response forms. Researcher took 4 and left 2 on the front reception desk, but was told by the library lady that she was off the rest of the week and there would be another member of staff.
Brecon	17 th November 2016	No	There were a number of Powys CC documents laid out well on a table, including the LDP. However there were no obvious consultation response forms. I asked a librarian who nicely explained that she knew nothing about it, searched around for response forms but without success. She suggested I return another day and they would try to find them.
Gwalia	17 th November 2016	Only in Welsh, and then later in English as well	Could not see FFC forms or any signage. Asked receptionists - first staff member had no idea about the FFCs at all, the second pointed me in direction of ante-room. All documentation and bunch of scruffy files available on a table [including tons of material about Reeve's Hill WF. Two FFC response forms in Welsh but no response forms in English. Receptionist called Planning upstairs but no answer. Receptionist tried to find form online for me, with no luck. She called back to Planning and this time an officer responded. 15 minutes later a planning officer arrived at reception with some response forms. Total time 25 mins waiting for forms.
Talgarth	18 th November 2016	Yes	a helpful girl on the desk who said she had not been there very long but turned to the shelves behind her where the LDPs were and between her and our researcher, we found the response forms straightaway.
Presteigne	19 th November 2016	Eventually yes.	Researcher could not see FFC forms or any signage in the library. Asked librarian - she had no idea about the FFCs / LDP at all. Did not know what I was talking about, said she said she is just a temporary member of staff. After some searching she eventually found a Powys CC LDP box wedged at the back of a shelf. She said she had never seen the box before and had received no instructions as contents or what to do with them. Box was unopened.- Forms and docs were enclosed within x 10 forms. 15 minutes wait for forms.

Comment

Of the 5 LDP 'access points' surveyed, only 1 was able to provide Welsh & English response forms without some significant delay.

The Cabinet Meeting

The FFCs were approved at a Cabinet Meeting on 13.9.16. There were 19 items on the agenda of which the FFCs to the LDP was one. 12 FFCs were discussed of which the RE1 change was one. There were over 800 pages of documentation for Cabinet members to read. We doubt they did read it all and, if they did, we doubt they could understand much of the RE1 material. The Monitoring RE Target of 600MW was not reproduced in the main Policy FFC 79 and it still isn't. The monitoring schedule for RE1 is no longer available for consultation and so has not been consulted on in contravention of PCC's duty. There is no evidence that the Aecom Maps of SLAs were available to the Cabinet.

The "Seminar" for councillors

In early November, the public became aware of the Agenda for a Councillor's seminar which had been arranged for Thursday 10.11.16 to explain the changes to RE1. Presentations by the Welsh Government, Aecom and the PCC LDP team were scheduled. Requests for the public to attend the seminar were refused. Requests that the seminar be web-cast were refused. Eventually the presentations, but not the Q&A sessions, were posted on the Powys website. There is no doubt that there had been no intention of doing this before the angry public response to being excluded from hearing the presentations.

Emails to CPRW Powys branches received from Councillors before and after the seminar and verbal information from Councillors to residents demonstrated various differing attitudes. We prefer not to name individual Councillors to avoid repercussions for those who may be considered to have "stepped out of line". We lament the Council attitude that our Councillors duty is to represent the Council to residents is to inform residents why the changes to RE1 are inevitable and in the public interests. Our belief, which is clearly shared by many Councillors, is that a main part of a Councillor's duty is to represent our concerns in to PCC in council affairs.

After the seminar, some Councillors discussed what had gone on in Local Council Meetings with the public but it is important to note that it seems about 40 out of 70 Councillors attended the seminar which was arranged at short notice and, of those who attended, the majority will not have had the opportunity to have a Community Council Meeting in the 6 working days intervening before close of consultation.

We have been told that the Seminar attendees were informed that :

"don't worry – it only means one 25M windfarm a year"

"compulsory purchase is not off the cards"

"we are being told by the WG we have no option"

We have also been told that a closed seminar was required so that Councillors could ask "stupid questions" without fear of public witness.

Some Councillors have also told us that they do not agree with the changes which will be disastrous for their localities; they do not think they have any say; PCC will implement RE1 whatever the response; they will respond on the form, objecting, anyway.

There has been no Powys response to a query about which Councillors attended the seminar. Two councillors have not responded to a resident's query about whether they attended the seminar.

Information for the public

We have had many, many communications from people, some of them highly qualified professionals, saying they can't find documents – especially the LSA maps, can't make head or tail of the REA and its calculations don't add up, they can't cope with the response procedure and can't work out which bits they are allowed to comment on. People have expressed horror that they had no idea of these proposals until shortly before close of consultation.

We have also had Powys web-site outages – one for over four days.

Conclusions

1. Powys CC commitments to continuously involve the public in consultation have not been delivered.
2. Powys CC has failed to ensure that the local press effectively brought to the attention of the public details of the renewable energy and local search area inclusions into the further focused changes
3. Powys CC has failed to make widely available through its libraries and at its principal planning office, the response forms to the LDP for the public to use.
4. The Powys Councillors have only had the RE1 issues drawn to their attention in the final quarter of the consultation period and their input is reduced to replying on a response form.
5. There is good reason to doubt that the Cabinet was fully ware of what it was approving under powers which, perhaps, should not have been delegated for so sensitive a local issue.
6. For these reasons, the plan is unsound.